

REMARKS

In the first Office Action, claims 1-39 were presented for examination. Of these, claims 1-14 and 21-33 were allowed. Claims 34-39 were indicated to be allowable if rewritten or amended to overcome a rejection under 35 USC 112. Claim 15 was rejected under 35 USC 112 and 103 and its dependent claims 16-20 were rejected under 35 USC 112. Substantive examination of dependent claims 16-20 was deferred pending any amendments or arguments relating to its independent claim 15.

With this amendment, independent claim 15 has been canceled, dependent claim 16 has been amended and rewritten in independent form incorporating all of the limitations of cancelled claim 15, dependent claim 20 has been amended, and independent claim 34 and its dependent claim 39 have been amended.

Allowed Claims 1-14 and 21-33

These claims stand allowed.

Independent Claim 34 And Its Dependent Claims 35-39

Independent claim 34 and its dependent claims 35-39 were indicated to be allowable if rewritten or amended to overcome the objections under 35 USC 112 to claims 34 and 39. More specifically, independent claim 34 was rejected under 35 USC 112 with the Examiner objecting to the wording "such as a spare tire" in lines 4 and 5 as being unclear. With this amendment, this wording has been deleted. Additionally, dependent claim 39 was rejected under 35 USC 112 with the Examiner suggesting the word "mountable" should be more appropriately presented as -- mounted --. With this amendment, the word "mountable" as it appears in claim 39 has been changed to -- mounted --.

It is believed independent claim 34 and its dependent claims 35-39 are now in condition for allowance and such action is respectfully requested.

Independent Claim 15
And Its Dependent Claims 16-20

Independent claim 15 was rejected under 35 USC 103 and independent claim 15 and its dependent claims 16-20 were rejected under 35 USC 112 under the written description requirement. Dependent claims 16 and 20 were additionally rejected under 35 USC 112 with the Examiner suggesting the word "mountable" should be more appropriately presented as -- mounted --. Examination of dependent claims 16-20 on the merits was deferred pending a response to the first Office Action.

With this amendment, claim 15 has been cancelled and dependent claim 16 has been amended and rewritten in independent form incorporating all of the limitations of cancelled claim 15. Further, the word "mountable" as it appears in claims 16 and 20 has been changed to --mounted --.

In further regard to cancelled claim 15, the Examiner under 35 USC 112 made inquiry as to the written description basis for the recitation in the last 5 lines of cancelled claim 15. The questioned wording in these last 5 lines related to the claimed arrangement to "selectively raise the free end of said gate relative to the opening in said vehicle to properly align said gate. . . ." Although the primary use of the disclosed arrangement is to correct problems that may arise due to the extra weight of a spare tire or other object on the arrangement, lines 14-31 of page 13 of the specification carrying over through line 19 on page 14 disclose that any sag in the rear gate 6 (whether or not a spare tire or other object is also supported on the arrangement) can be corrected by adjusting the arrangement

In particular, this portion of the specification beginning at line 14 of page 13 recites:

The adjustable leg 9 also offers a further advantage should any of the hinges or joints become physically bent or distorted and **the rear gate 6 sag downwardly at its free end.** In such an event, the leg 9 can be shortened to **physically raise the free end** of the rear gate 6 adjacent the latching arrangement 12 **back up into proper alignment with the vehicle opening** 14 of Figure 3. The rear gate 6 in this regard tends to sag or rotate counterclockwise about the lower hinges 8' and 3' and the adjustable leg 9 can then be used to rotate the rear gate 6 clockwise primarily at hinge 8' back into

proper alignment. It is noted that if the carrier 1 is just used to offset the sag or is primarily used to do so, it may be advantageous to modify the structure of the carrier 1 (e.g., remove the stop member 29) so the legs 7 and 9 can assume a straight or collinear alignment with each other. It is also noted that this adjustment feature of the carrier 1 of the present invention is independent of its operation to support and bring the tire 2 into proper, front-to-back vertical alignment as discussed above in reference to Figures 6-8. **That is, this operation of the adjustable leg 9 to selectively raise the free end of the rear gate 6 should it sag can be utilized whether or not the tire 2 is on the carrier 1.** This operation as is evident could also be used to lower the free end of the gate 6 if necessary.

Such adjusting additionally has the effect of varying the relative amounts of the weight of the gate 6 carried by the gate hinges 8 and 8' versus the hinges 3 and 3' for the carrier 1. This ability to adjust the relative amounts is perhaps more important when the gate 6 has the additional weight of a tire 2 supported in part on the gate including its hinges 8 and 8'. (emphasis added)

It is believed independent claim 16 and its dependent claims 17-20 are now in condition for allowance and such action is respectfully requested.

SUMMARY

It is respectfully submitted that all of the claims now present in the case (claims 1-14 and 16-39) are in condition for allowance and such action is respectfully requested. If, in the opinion of the Examiner, prosecution of this application could be expedited by a telephone interview, the Examiner is respectfully requested to contact the attorney for the applicants at the telephone number listed below.

A petition under Rule 1.136(a) accompanies this amendment.

Respectfully submitted,

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